REMARKS

Claims 34-87 have been canceled without prejudice or disclaimer. Claims 88-117 have been added and therefore are pending in the present application. Claims 88-117 are supported by, *e.g.*, claims 34-87.

The specification has been amended to update the Cross-Reference to Related Applications section.

It is respectfully submitted that the present amendment presents no new issues or new matter and places this case in condition for allowance. Reconsideration of the application in view of the above amendments and the following remarks is requested.

I. The Restriction Requirement

The Office Action made a restriction requirement between two groups. As provided therein, Applicants provisionally elected with traverse the invention of Group I, i.e. claims 34-41, 46-51, 56-59, 64-67, 72-75, and 80-83. Applicants confirm this election. Applicants reserve the right to file continuing applications directed to non-elected subject matter.

II. The Objection to the Specification

The Office objected to the specification because the sequence listing does not include the sequences contained in figure 1.

Applicants enclose a paper copy and a computer readable form of a new Sequence Listing which contains these sequences. The content of the paper copy and of the computer readable form is the same. Please note that Figure 1 is a partial alignment of a number of subtilases from amino acid residue 127 to 201, with a gap from amino acid residue 173 to 188.

The specification has been amended to provide sequence identifiers for these sequences in the Brief Description of the Figures section. This submission contains no new matter.

For the foregoing reasons, Applicants submit that this objection has been overcome. Applicants respectfully request reconsideration and withdrawal of the objection.

III. The Objection to Claims 34, 46 and 56

The Office objected to claims 34, 46 and 56 because "they fail to state a proper Markush format." Claims 34, 46 and 56 have been canceled. Therefore, this objection is rendered moot.

IV. The Rejection of Claims 34-41, 46-51, 56-59, 64-67, 72-75, and 80-83 under 35 U.S.C. 112

Claims 34-41, 46-51, 56-59, 64-67, 72-75 and 80-83 are rejected under 35 U.S.C. 112 "because none states a sequence identifier at the close of their terminal clause with which the referenced sequence can be identified." This rejection is respectfully traversed.

The claims recite "subtilisin BPN'" as the reference sequence. The amino acid sequence of this subtilisin is well known in the art. Thus, the scope of the claims is clear.

However, in order to advance prosecution, Applicants have added the amino acid sequence of subtilisin BPN' to the sequence listing and its sequence identifier to the claims.

For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 112. Applicants respectfully request reconsideration and withdrawal of the rejection.

V. The Rejections under the Doctrine of Obviousness-Type Double Patenting

Certain claims are rejected under the doctrine of obviousness-type double patenting as being unpatentable over the following applications and patents:

1. U.S. Patent No. 5,482,849 (our docket no. 3470.200),
2. U.S. Patent No. 5,631,217 (our docket no. 3470.210),
3. U.S. Patent No. 5,741,694 (our docket no. 3160.230),
4. U.S. Patent No. 6,110,884 (our docket no. 3957.524),
5. U.S. Patent No. 6,808,913 (our docket no. 3160.240),
6. U.S. Application No. 10/314,191 (our docket no. 3257.270), and
7. U.S. Application No. 10/896,177 (our docket no. 3160.270),

These rejections are respectfully traversed.

None of these patents and applications claim the modified subtilases recited in independent claims 88, 96, 102, 106, 110, or 114. Applicants therefore submit that these rejections have been overcome.

VI. The Rejections under the Doctrine of Obviousness-Type Double Patenting

Certain claims are rejected under the doctrine of obviousness-type double patenting as being unpatentable over the following applications and patents:

1. U.S. Patent No. 6,555,355 (our docket no. 5349.204),
2. U.S. Patent No. 6,558,938 (our docket no. 5348.200),
3. U.S. Patent No. 6,605,458 (our docket no. 5435.200),

4. U.S. Patent No. 6,773,907 (our docket no. 5435.400),
5. U.S. Patent No. 6,777,218 (our docket no. 6137.200),
6. U.S. Patent No. 6,780,629 (our docket no. 5435.410),
7. U.S. Patent No. 6,893,855 (our docket no. 10081.200),
8. U.S. Patent No. 6,921,657 (our docket no. 5349.214),
9. U.S. Application No. 09/931,701 (our docket no. 10065.200),
10. U.S. Application No. 09/948,080 (our docket no. 4946.210),
11. U.S. Application No. 09/957,806 (our docket no. 10021.204),
12. U.S. Application No. 10/403,105 (our docket no. 5435.210),
13. U.S. Application No. 10/699,394 (our docket no. 10038.200),
14. U.S. Application No. 10/786,850 (our docket no. 10203.204), and
15. U.S. Application No. 10/884,325 (our docket no. 10081.210).

These rejections are respectfully traversed.

Obviousness-type double patenting is a judicially-created doctrine which prevents unjustified or improper timewise extensions of the right to exclude granted by a patent. It is well settled that a one-way analysis of obviousness is the proper test when a later filed improvement patent issues before an earlier filed basic patent. *In re Berg*, 46 U.S.P.Q.2d 1226 (Fed. Cir. 1998).

In the present case, the instant application has an earlier effective US filing date than the above cited US patents and applications. Thus, a patent issuing from the instant application will expire prior to the cited patents and applications.

Moreover, the cited applications and patents claim improvements of the inventions claimed in the instant application. Since the subject matter is not obvious over the instant application, the obviousness-type double patenting rejections are improper.

For the foregoing reasons, Applicants submit that the claims overcome these rejections under the doctrine of obviousness-type double patenting. Applicants respectfully request reconsideration and withdrawal of the rejections.

VII. The Rejections under the Doctrine of Obviousness-Type Double Patenting

Certain claims are rejected under the doctrine of obviousness-type double patenting as being unpatentable over the patents issued from the parent applications, namely U.S. Patent Nos. 5,837,517 (our docket no. 4322.200), 6,190,900 (our docket no. 4322.210) and 6,682,924 (our docket no. 4322.220).

Applicants will file a terminal disclaimer upon an indication of allowable subject matter.

VIII. The Rejections under 35 U.S.C. 102

Claims 34, 35, 37, 39-41, 46, 48, 51, 56, 59, 64 and 67 are rejected under 35 U.S.C. 102(e) as being anticipated by Branner et al. (U.S. Patent Nos. 5,482,849 and 5,631,217). Claims 34, 38 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Hastrup et al. (U.S. Patent No. 5,741,694). Claims 34, 35, 41, 46, 48, 51, 56 and 59 are rejected under 35 U.S.C. 102(e) as being anticipated by Rasmussen et al. (U.S. Patent No. 6,110,884). Claims 34, 35, 41, 46, 48, 51, 56, 59, 72, 75, 80 and 83 are rejected under 35 U.S.C. 102(b) as being anticipated by Branner et al. (WO 91/00345) and under 35 U.S.C. 102(e) as being anticipated by Aaslyng et al. (U.S. Patent Nos. 5,665,587 and 6,197,567). Claims 34-37 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Wells et al. (EP 251466) and under 35 U.S.C. 102(e) as being anticipated by Bott et al. (U.S. Patent No. 5,700,676). Claims 34, 35, 37, 41, 466-48, 51, 56, 59, 72 and 75 are rejected under 35 U.S.C. 102(b) as being anticipated by Casteleijn et al. (EP 405901). Claims 34, 35, 41, 46-48, 51, 56 and 59 are rejected under 35 U.S.C. 102(b) as being anticipated by Branner et al. (WO 92/11357). Claims 34, 38 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Christianson et al. (WO 92/21760) and under 35 U.S.C. 102(e) as being anticipated by Christianson et al. (U.S. Patent Nos. 5,500,364 and 5,340,735). Claims 34, 38 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Maurer e al. (U.S. Patent Nos. 5,801,039 and 6,197,589). These rejections are respectfully traversed.

The cited references disclose modified subtilases. However, none of these references disclose or suggest the modified subtilases recited in independent claims 88, 96, 102, 106, 110, or 114. Applicants therefore submit that these rejections have been overcome.

IX. Conclusion

In view of the above, it is respectfully submitted that all claims are in condition for allowance. Early action to that end is respectfully requested. The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application.

Respectfully submitted,

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